

1 SB105  
2 215875-1  
3 By Senator Beasley (N & P)  
4 RFD: Local Legislation  
5 First Read: 18-JAN-22

A BILL  
TO BE ENTITLED  
AN ACT

Relating to Henry County; to authorize a law enforcement officer from a designated law enforcement agency to take an individual whom the officer believes has a mental illness into protective custody under certain conditions; to provide for the transportation of the individual to a hospital or other facility for evaluation and treatment; and to provide protection from civil liability to law enforcement officers who, in good faith, place individuals with mental illness into protective custody.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall only apply in Henry County.

Section 2. (a) For the purposes of this section, the following terms have the following meanings:

1 (1) DESIGNATED LAW ENFORCEMENT AGENCY. A law  
2 enforcement agency within Henry County that is authorized by  
3 the sheriff to exercise the authority described in this  
4 section.

5 (2) LAW ENFORCEMENT OFFICER. Any state, county, or  
6 municipal officer certified by the Alabama Peace Officers'  
7 Standards and Training Commission.

8 (b) (1) Concurrently with Article 5 of Chapter 52 of  
9 Title 22, Code of Alabama 1975, a law enforcement officer from  
10 a designated law enforcement agency may take an individual  
11 into protective custody when the officer has reasonable cause  
12 to believe that the individual has a mental illness and is an  
13 immediate danger to himself or herself or others.

14 (2)a. Upon placement of an individual under  
15 protective custody pursuant to subdivision (1), the law  
16 enforcement officer shall transport the individual to a  
17 hospital providing care and treatment to those with mental  
18 illnesses or other designated treatment facility for an  
19 evaluation and treatment.

20 b. If the individual does not consent to the  
21 transport, the officer may use reasonable force necessary to  
22 carry out the transport.

23 c. The individual shall be released from the  
24 hospital or designated treatment facility within 72 hours,  
25 exclusive of Saturday, Sunday, or any legal holiday, unless a  
26 judge of probate orders further inpatient or outpatient

1 treatment for the individual as provided in Article 1 of  
2 Chapter 52 of Title 22, Code of Alabama 1975.

3 d. Upon a determination by an attending physician,  
4 nurse practitioner, or physician assistant at a hospital  
5 licensed in this state that an individual transported to the  
6 hospital pursuant to this section does not have a mental  
7 illness or is not a danger to self or others, the hospital  
8 shall promptly communicate this information to the appropriate  
9 law enforcement officer. The law enforcement officer shall  
10 coordinate the immediate release of the individual from the  
11 hospital and shall release the individual from protective  
12 custody unless the law enforcement officer has some legal  
13 cause for detaining the individual other than the individual's  
14 mental condition. After the individual is released, and upon  
15 request of the individual, the law enforcement officer shall  
16 transport the individual to his or her residence or other  
17 place of abode if it is within the county.

18 (c) Protective custody by a law enforcement officer  
19 under this section shall not be considered an arrest for any  
20 purpose, and no entry or other record may be made to indicate  
21 that an individual subject to temporary protective custody by  
22 a law enforcement officer under this section has been detained  
23 or charged with any crime.

24 (d) (1) It is the policy of this state to encourage a  
25 law enforcement officer, hospital, physician, medical  
26 provider, or other designated treatment facility to act in the  
27 best interests of the state by detaining individuals who have

1 mental illnesses and are a danger to themselves or others for  
2 evaluation and treatment. The state finds that these actions  
3 are necessary to protect the individuals and the public. These  
4 entities and individuals are acting in the name of the state  
5 and are acting as state agents when acting pursuant to this  
6 section in making determinations, detaining, releasing,  
7 admitting, discharging, or otherwise taking action under this  
8 section. When acting pursuant to this section, a law  
9 enforcement officer, hospital, physician, medical provider, or  
10 other designated treatment facility shall be afforded immunity  
11 under Section 36-1-12, Code of Alabama 1975, as any other  
12 state employee or agent of the state.

13 (2) Nothing in this act shall modify, amend, repeal,  
14 or supersede any provision of Section 6-5-333, Code of Alabama  
15 1975, the Alabama Medical Liability Act of 1987, commencing  
16 with Section 6-5-540, Code of Alabama 1975, or the Alabama  
17 Medical Liability Act of 1996, commencing with Section  
18 6-5-548, Code of Alabama 1975, or any amendment to any of  
19 these laws or any judicial interpretation of these laws.

20 Section 3. This act shall become effective on the  
21 first day of the third month following its passage and  
22 approval by the Governor, or its otherwise becoming law.